

CITY OF GAITHERSBURG  
MINUTES OF A CITY COUNCIL MEETING  
CITY HALL COUNCIL CHAMBERS  
**MONDAY, DECEMBER 17, 2012**

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Ashman, Drzyzgula, Marraffa, Sesma and Spiegel. Staff present: City Manager Tomasello, Parks, Recreation and Culture Director Potter, Economic Development Director Loneragan, Planning and Code Administration Director Schlichting, Long Lead Planner Robinson, Human Resources Director Daily, Planner Bowling, City Attorney Board, and Municipal Clerk Stokes.

**I. PLEDGE OF ALLEGIANCE**

The Pledge was led by Economic Development Director Thomas Loneragan.

**II. INVOCATION**

In lieu of an invocation, Mayor Katz called for a moment of silence.

**III. APPROVAL OF MINUTES**

Motion was made by Council Member Ashman, seconded by Council Member Sesma, that the minutes of the Mayor and Council regular meeting held November 19, 2012, be approved.

Vote: 5-0

**IV. ELECTION OF VICE PRESIDENT OF THE COUNCIL**

Motion was made by Council Member Spiegel, seconded by Council Member Ashman, that Michael Sesma be elected to serve as Vice President of the Council for a period of one (1) year.

Vote: 4-1 (Opposed: Marraffa)

Council Member Marraffa explained his vote to opposed the above motion. He stated that his opposition is not against his colleague, but against the decision to change the process that historically had been by rotation. He expressed disappointment in the lack of communication and support of his colleagues. He speculated that it may be due to the upcoming City Elections or possibly his not agreeing on various issues.

Council Member Spiegel responded that the nomination was not personal, but a due to a formula/cycle that was agreed upon by he and his colleagues while campaigning in 2007 to rotate the Vice President in a reasonable fashion based on numbers and facts from the voter turnout.

**V. CONSENT ITEMS**

**Resolution of the Mayor and City Council Amending the FY13 Adopted Fee Schedule for the City of Gaithersburg**

During the November 19, 2012 Mayor and City Council meeting, staff presented information pertaining to the decline in attendance and revenue at the Skate Park. Staff proposed amendments to the City's fee schedule in an effort to increase attendance and exposure in the hopes of generating additional revenue in programs and event registrations. No changes were proposed to City resident rates, or to weekday fees. Staff had determined that Water Park can sustain the increase and continue to be economical when compared with similar facilities within the region.

Motion was made by Council Member Drzyzgula, seconded by Council Member Sesma, that the Consent Agenda (Resolution No. R- 89 -12) be approved.

## **VI. PRESENTATIONS**

### **Presentation from the 2012 Kentlands/Lakelands 5k Race Committee**

The 19th Annual Kentlands/Lakelands 5k Race and Kid's Fun Runs, hosted by the Kentlands Community Foundation in partnership with the City of Gaithersburg was held on September 1, 2012. The Foundation hosts the 5k Race to raise funds, promote volunteerism, and showcase the benefits of new urbanism and walkable communities. This year's running festival had more than 1,600 participants; 1,323 in the 5k and 300 in the Kids Fun Runs. The event was supported by 40 sponsors and nearly 100 volunteers. For a fifth year in a row, the 5k served as a qualifying event for the Maryland Senior Olympic Games. Local charities benefited from the event including a \$10,500 contribution to the City's Dolores C. Swoyer Scholarship fund. The presentation of the check was made by Foundation Chair Glen Palman, Foundation Executive Director Carrie Dietz, and Race Director of 5k Steve Solbeck.

## **VII. PUBLIC COMMENTS**

No speakers from the public.

## **VIII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS**

### **Council Member Ashman**

1. Announced that a closed meeting was held on Monday December 3, 2012, at City Hall at approximately 9:20 p.m., pursuant to a motion adopted unanimously. The meeting was proposed pursuant to the State Government Article of the Annotated Code of Maryland Section 10-508(a)(1) the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topics discussed were the duties, goals, and expectations of the newly appointed City Manager. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa and Spiegel, City Manager Tomasello (left at 9:35 p.m.), and City Attorney Board. The closed session was adjourned at approximately 9:55 p.m.
2. Offered condolences to Council Member Sesma on the passing of his mother.
3. Attended the Maryland Municipal League Legislative Dinner and had an opportunity to speak and interact with State legislatures and fellow municipal officials.
4. Attended the Gaithersburg Police Department Holiday party at the Gaithersburg Hilton.
5. Wished all a Happy and Merry Holiday Season!
6. Spoke on the tragic shooting in Newton, Connecticut. Mentioned that Gaithersburg Police were in attendance at area schools for support and comfort. Thoughts and prayers were expressed to the Newton community.
7. Reported that he, City Attorney Board, Intergovernmental Affairs Coordinator Sanchez, and others are working on the Ethics legislative agenda. The group is drafting language for amendments to the 2010 state ethics mandate. City Attorney Board further stated that last year's proposed language is being modified stressing the municipalities versus the counties, due to the different issues. In addition, an outreach had begun to get together a coalition of jurisdictions to support the legislation.

### **Council Member Spiegel**

1. Reported that it had been arranged to have flags lowered at half mass in memory of the victims in Newton, Connecticut. Stated he is working with City Attorney Board to strengthen City law and laws at other levels of government to reduce the risk of such tragedy and ensure the safety of our

communities where appropriate.

2. Echoed condolences to Mike Sesma on the passing of his mother.
3. Mentioned PEPCO has filed for a request for rate increases and suggested that the City explore options to make sure the interest of City residents and businesses are protected in the new rate case.
4. Attended the Maryland Municipal League Holiday Dinner which provided an opportunity to communicate with legislators.
5. Attended the Committee for Montgomery Breakfast. Legislative priorities were discussed, but the main focus was transportation.
6. Attended the Gaithersburg Police Department Holiday party which was a reminder of the importance of having excellent, well supported public safety officials and first responders in our community
7. Attended the Gaithersburg/Germantown Chamber of Commerce Dinner.
8. Attended the holiday party at the Innovation Center at Shady Grove. The City of Gaithersburg was a host and sponsor of said annual event.
9. Announced a closed meeting was held on December 10, 2012, at City Hall at approximately 8:25 p.m., pursuant to a motion adopted unanimously. The meeting was proposed pursuant to the State Government Article of the Annotated Code of Maryland Section 10-508(a)1(l) the appointment, employment assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees, or officials over whom it has jurisdiction. The topics discussed were the duties, goals, and expectations of the newly appointed City Manager. Present at the meeting were Mayor Katz, Council Members Ashman, Drzyzgula, Marraffa, and Spiegel, City Manager Tony Tomasello, and City Attorney Board. The closed session adjourned at approximately 9:20 p.m.
10. Encouraged residents to visit the City's event calendar for activities throughout the City and mentioned the Winter Lights festival.
11. Wished everyone Happy Holidays and New Year.

#### **Council Member Marraffa**

1. Echoed condolences to the families in Newton, Connecticut and Mike Sesma on the passing of his mother.
2. Attended several of the events mentioned above. During one of the legislative events, he had the opportunity to talk with County Councilmember Phil Andrews about providing support in lowering toll fares and increasing the speed limit on the InterCounty Connector. Encouraged residents to use the shuttle bus service available to BWI.
3. Wish all a Merry Christmas and happy holidays!

#### **Council Member Drzyzgula**

1. Attended several of the events mentioned above including the Gaithersburg/Germantown Chamber of Commerce Dinner and the Maryland Municipal League Legislative Dinner. In addition, joined Mayor Katz and participated during the Gaithersburg HELP ribbon cutting ceremony.
2. Attended the County Executives Arts and Humanities Ball to raise the City's profile and bring the City's role and offerings to the county level.
3. Reported that the Gaithersburg Community Chorus celebrated 25 years with a concert. An annual

concert has been a long standing tradition in Gaithersburg.

4. Echoed sympathy to Council Vice President Sesma on the loss of his mother.
5. Encouraged citizens to participate at the various levels of government in their communities. Asked residents to take time to testify before government and provide input during the 2013 New Year.

#### **Council Vice President Sesma**

1. Thanked all for their support and thoughts on the loss of his mother who passed on December 4, 2012.
2. Offered condolences to the families of Newton, Connecticut and expressed the importance and need to address mental health issues to prevent such tragedies.
3. Welcomed Richard Knoebel back to the Mayor and City Council meetings and expressed condolences to him on the passing of his wife.
4. Congratulated Council Member Drzyzgula on being elected as President of the Metropolitan Washington Council of Governments.
5. Attended the Gaithersburg Community Chorus 25th Anniversary Celebration. Mentioned that Nansie Wilde of the Department of Parks, Recreation and Culture was recognized for helping the chorus to get started and maintaining the public's support and interaction.
6. Expressed thanks to the Kentlands Community Foundation for their continuous support of the Annual Kentlands/Lakelands 5k Race and Kid's Fun Run.
7. Attended the Committee for Montgomery Legislative Breakfast and stated that another topic mentioned was the need for a state-wide gas tax which will be discussed during the next legislative session.
8. Attended the National League of Cities Conference in Boston, Massachusetts and participated in several sessions including: sustainable green infrastructure and the use for stormwater management; placemaking and developing arts and entertainment districts. He reported that hydraulic fracturing has become a legislative issue. It was noted that the City will receive a presentation at a future work session on the topic of "fracking". Mentioned that he was elected to the Board of Directors National League of Cities, representing Maryland for a two-year term. He thanked Council Member Marraffa and others for their support.
9. Wished everyone Happy Holidays.
10. Announced that the Mayor and City Council are seeking members to fill vacancies on various committees. Resumes and letters of interest should be submitted to: Mayor and City Council, 31 South Summit Avenue, Gaithersburg, Maryland 20877, or via email to: [cityhall@gaitthersburgmd.gov](mailto:cityhall@gaitthersburgmd.gov).

#### **Mayor Katz**

1. Requested the following motion:

Motion was made by Council Member Sesma, seconded by Council Member Marraffa, that the Mayor and City Council conduct a closed executive session immediately following the scheduled regular meeting on Monday December 17, 2012, at City Hall. The meeting is closed pursuant to the States Government Article of the Annotated Code of Maryland Section 10-508(a) (3) to consider the acquisition of real property for a public purpose and matters directly related thereto, and Section 10-508(a) (8) consult with staff, consultants, or other individuals about pending or potential litigation. The topics to be

discussed are the Kentlands Firehouse located at 321 Firehouse Lane, the PEPCO Rate Case, and a residential property.

Vote: 5-0

2. Announced the following meeting schedule:

No work session on Monday, December 24th and 31st, 2012 due to the holidays.

Next regular meeting on Monday, January 7, 2013.

## **IX. FROM THE CITY MANAGER**

1. Acknowledged the sadness of the tragedy in Newton, Connecticut and expressed condolences to Council Vice President Sesma on the loss of his mother.
2. Suggested and confirmed a budget public forum be scheduled for February 11th at City Hall prior to the Mayor and City Council Annual Planning Retreat. Topics to be discussed will be information on the City's finances and potential budget challenges and receive input from the community about fiscal priorities.
3. Reported that the City will extend the Constitution Gardens Ad Hoc Improvements Committee submittal deadline in an effort to increase interest and encourage individuals from the community to become involved in the park design and public safety.
4. Reiterated that staff is working to schedule a work session on hydraulic fracturing and seeking speakers to provide a presentation in January 2013.
5. Congratulated Mike Sesma on being elected Council Vice President. Noted that name plates and badges, new letterhead and business cards will be ordered later in the week.

## **X. ECONOMIC DEVELOPMENT UPDATE**

### **Economic Development Director Lonergan**

1. Attended the Gaithersburg/Germantown Chamber of Commerce Legislative Dinner, Annual Holiday Party at the Incubator, as well as the County's Legislative Breakfast event.
2. He and Planning Director Pruss attended the Maryland Transportation Summit in Annapolis. The event was co-sponsored by several Montgomery County legislators and attended by stakeholders from around the state. The purpose of the summit was to confirm that by 2018 the State Transportation Trust Fund will have no money to fund infrastructure projects around the state. There was a plea from area leaders for the state to consider an increase of the state's gas tax to support funding. In addition, a need was expressed to explore more creative ways of financing public infrastructure projects including the use of TIFs.
3. Welcomed Gaithersburg Heating and Air Conditioning located at 327 East Deer Park. Renovations are planned using the City's Toolbox Program for assistance with build out costs. He noted the importance of City programs to secure and maintain jobs in the City.
4. Wished everyone Happy Holidays.

## **XI. ORDINANCES, RESOLUTIONS AND REGULATIONS**

- A. **Resolution of the Mayor and City Council Authorizing the City Manager to Negotiate and Execute a Contract with Sage Policy Group to Provide Consulting and Facilitation Services for the City of Gaithersburg**

Planning and Code Administration Director Schlichting presented the above resolution. He along with Economic

Development Director Lonergan and Lead Long Range Planner Robinson reviewed thirteen submissions. He mentioned that Sage Policy Group will conduct the various economic analyses and be lead consultant, joined by Dewberry (located in Gaithersburg), leading the land use centered studies and the Traffic Group, who will be responsible for transportation related analysis.

This resolution authorized the City Manager to negotiate and execute an agreement with Sage Policy Group to provide consulting and facilitation services to develop the *Gaithersburg Frederick Avenue Corridor & Vicinity Development Capacity Study* for the City of Gaithersburg in an amount not to exceed One Hundred Eighteen Thousand Dollars (\$118,000); said funds to be expended from the Economic Development Fund.

Motion was made by Council Member Ashman, seconded by Council Member Sesma, that a RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH SAGE POLICY GROUP TO PROVIDE CONSULTING AND FACILITATION SERVICES FOR THE CITY OF GAITHERSBURG (Resolution No. R-90-12) be approved.

Vote: 5-0

**B. An Ordinance to Amend Chapter 17 of the City Code Entitled “Personnel” by Adding Section 17-2.1, Entitled “Reporting of Improper or Illegal Acts”**

City Attorney Board presented the above Ordinance. As mentioned during previous meetings, many governmental entities, including federal, state and local governments have adopted policies to encourage the reporting of improper or illegal actions by government officials and employees and have established investigatory procedures when such actions are reported. The proposed Ordinance was discussed on a staff level by a whistleblower focus group, which researched ordinances from around the country. A work session was held on August 13, 2012 and a public hearing on November 19, 2012.

Motion was made by Council Member Marraffa, seconded by Council Member Spiegel, that AN ORDINANCE TO AMEND CHAPTER 17 OF THE CITY CODE, ENTITLED “PERSONNEL” BY ADDING SECTION 17-2.1, ENTITLED “REPORTING OF IMPROPER OR ILLEGAL ACTS” (Ordinance No. O-9-12) be adopted.

Vote: 5-0

**C. Resolution of the Mayor and City Council Approving the Personnel Rules & Regulations of the City of Gaithersburg as Amended**

Human Resources Director Daily presented the above Resolution. The personnel rules and regulations is a manual comprised of the personnel rules, regulations, policies, procedures, and practices that regulate and govern an employment with the City. These amendments would replace and supersede all previous versions of the manual. City Manager Tomasello noted that in the future, changes to the regulations will not be done retroactively, but received in advance. He asked that the resolution reflect the effective date of December 31, 2012.

Motion was made by Council Member Drzyzgula, seconded by Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVE THE PERSONNEL RULES & REGULATIONS OF THE CITY OF GAITHERSBURG AS AMENDED (Resolution No. R-91-12) be approved with amendments.

Vote: 5-0

**D. Resolution of the Mayor and City Council Establishing a City Policy Relative to the Reporting of Improper or Illegal Acts of the Mayor, City Council, Commissions, Boards and Committees**

City Attorney Board presented the above Resolution. Staff is working on a press release, brochures and soliciting quotes for a vendor to operate the hotline and website to access for filing complaints. The proposed resolution will establish a City policy regarding the reporting and investigation of improper or illegal acts of the Mayor, City Council, Commissions, Boards and Committees. The policy is similar to the amendments to the Personnel Rules

and Regulations manual applying the Improper and Illegal Acts Ordinance to City employees, but has been tailored to address investigation and enforcement issues specific to the Mayor, Council members, and members of Commissions, Boards and Committees.

Council Member Drzyzgula referred to the definitions and the order of sections d, e, and f, relating to retaliation. City Attorney responded that the policy will be renumbered to make e and f subsections of d.

Motion was made by Council Member Ashman, seconded by Council Member Spiegel, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL ESTABLISHING A CITY POLICY RELATIVE TO THE REPORTING OF IMPROPER OR ILLEGAL ACTS OF THE MAYOR, CITY COUNCIL, COMMISSIONS, BOARDS, AND COMMITTEES (Resolution No. R-92-12) be approved.

Vote: 5-0

## **XII. POLICY DISCUSSION**

### **A. Applications for Historic Designation to the Circa 1900 Tschiffely-Kent Farm:: Hist-0769-2012 and Hist-0774-2012**

Planner Bowling presented the above applications. The matter was continued from November 5, 2012. The Mayor and City Council did not take final action on the Carriage House, Historic Designation Application: HIST-0774-2012, and the Flour Mill, Historic Designation Application: HIST-0769-2012, instructing staff to continue to reach out to the owners of the two buildings with the hope of receiving their feedback prior to taking determinative action on the applications. On November 15, 2012 staff mailed informational packets on the Historic Designation Applications, via certified mail, to each of the property owners. In the subsequent weeks staff also was successful in establishing communication with both property owners via telephone and via email. On Wednesday, December 5, 2012 staff received a confirmation of support for Historic Designation Application: HIST-0769-2012 from Elizabeth Plater-Zyberk of Duany Plater-Zyberk & Company. The Board of Trustees for the Kentlands Citizen's Assembly voted to support Historic Designation Application: HIST-0774-2012 during their regular meeting on Wednesday, December 12, 2012.

Prior to final action, staff recommended that the Mayor and City Council make two motions. One to reopen the record for historic application number Hist-0769-2012 and Hist-0774-2012 for the purpose of adding the new information to the record and one motion to close the record.

Motion was made by Council Member Sesma, seconded by Council Member Drzyzgula, that the Mayor and City Council reopen the record to receive the five additional items (numbered 51 through 55) on the above applications.

Vote: 5-0

Motion was made by Council Member Ashman, seconded by Council Member Sesma, that the Mayor and City Council close the record on the above applications.

Vote: 5-0

Motion was made by Council Member Drzyzgula, seconded by Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL PURSANT TO §24-226 OF THE CITY CODE, APPROVING THE DESIGNATION OF THE FLOUR MILL, AS DELINEATED AT 320 FIREHOUSE LANE AS AN INDIVIDUALLY DESIGNATED HISTORIC RESOURCE WITHIN THE CITY OF GAITHERSBURG – HIST-0769-2012 (Resolution No. R-93-12) be approved.

Vote: 5-0

Motion was made by Council Member Ashman, seconded by Council Member Spiegel, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL PURSANT TO §24-226 OF THE CITY CODE, APPROVING THE DESIGNATION OF THE CARRIAGE HOUSE, AS DELINEATED AT

321 KENT SQUARE ROAD AS AN INDIVIDUALLY DESIGNATED HISTORIC RESOURCE  
WITHIN THE CITY OF GAITHERSBURG - HIST-0774-2012 (Resolution No. R-94-12) be  
approved.

Vote: 5-0

The Superintendent's House was questioned. Planner Bowling stated that he made contact with Dr. Hirsch, owner of the house and he is open to have a similar covenant as the Grotto House. Staff is preparing language for such covenant for the owners review. It was noted that there is no time constraint for said matter.

**B. Ordinance to Amend Chapter 24 of the City Code, Entitled, "Zoning," Article XII, Entitled, "Preservation of Historic Resources," §25-225, Entitled, "Historic District Commission," so as to Conform to Maryland House Bill 858 Regarding the Number of Historic District Commission Full Members and Alternate Members**

Planner Bowling presented the above ordinance and gave a brief background on the process which began on October 1, 2012 for sponsorship. The joint public hearing on Text Amendment Application: CTAM-1211-2012 was held on the Monday, November 5, 2012. The Planning Commission's record was held open until 5:00 P.M. on Thursday, November 15, 2012 (10 days). The Planning Commission recommended adoption of the ordinance at the regular meeting on Wednesday, November 28, 2012. Text Amendment Application: CTAM-1211-2012 seeks to ensure that the City Code conforms to State law. The proposed ordinance would make certain that the language in §25-225 is consistent with the language of Article 66B/Chapter 426.

Motion was made by Council Member Spiegel, seconded by Council Member Drzyzgula, that the CITY COUNCIL AMEND CHAPTER 24 OF THE CITY CODE, ENTITLED "ZONNING", ARTICLE XII, ENTITLED, "PRESERVATION OF HISTORIC RESOURCES", §25-225, ENTITLED, "HISTORIC DISTRICT COMMISSION", SO AS TO CONFORM TO MARYLAND HOUSE BILL 858 REGARDING THE NUMBER OF HISTRIC DISTRICT COMMISSION FULL MEMBER AND ALTERNATE MEMBERS (Ordinance No. O-10-12) be approved.

Vote: 5-0

**XIII. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:37 p.m.